

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 162

A police officer has asked the Ethics Commission [Commission] to advise him whether the Honolulu Police Department [HPD] properly denied his request to be a process server for the State of Hawaii Sheriff's Office.

The Commission believes that the HPD properly denied the officer's request, based on the following facts:

As a metropolitan police officer of the HPD, the officer is required to discharge his official duties twenty-four (24) hours a day, including preventing crimes should the need arise. In addition, he has access to confidential departmental information.

As a process server for the State of Hawaii Sheriff's Office, the officer would be required to serve legal documents on designated parties.

The HPD denied the officer's request to be a process server under a policy that allows no HPD personnel to perform such outside work.

The ethical question is whether official duties as a metropolitan police officer would conflict with outside employment as a process server for the State of Hawaii Sheriff's Office when process servers are only required to serve the designated legal documents but police officers are required to discharge their official duties twenty-four (24) hours a day.

Two standards of conduct are relevant to this question. Section 11-102.3, Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], prohibits City employees from engaging in any business transaction or activity or having a financial interest which is incompatible with the proper discharge of official duties or which may tend to impair independence of judgment in the performance of official duties. Also, Section 11-102.1, RCH, prohibits such employees from disclosing confidential information gained in the course of City employment.

As a process server for the State of Hawaii, a police officer may observe misconduct for which he is not required to take any action. However, as a police officer, even off duty and while employed elsewhere, he would be required to follow the City's and the HPD's standards of conduct. Also, discharging his official duties may actually preclude or hinder him in being a process server by alerting the person to be served that a police officer is present. As such, there is

a very real possibility that this situation would be incompatible with the proper discharge of his official duties and would tend to impair his independence of judgment in the performance of his official duties.

In addition, as a police officer, he has access to confidential HPD information that would aid any process server in locating persons to be served with legal documents. The possibility exists that the officer might inadvertently use such information and thus violate the standards of conduct. Therefore, the Commission finds it would be a violation of the standards of conduct required of all appointed officers and employees of the City for him or any other police officer to be employed by the State of Hawaii Sheriff's Office as a process server.

In summary, the Commission believes the HPD properly denied the officer's request to be a process server because such work is incompatible with the discharge of official duties and might entail the disclosure of confidential information.

Date: January 27, 1987

JANE B. FELLMETH
Chair, Ethics Commission